

Order

Michigan Supreme Court
Lansing, Michigan

January 14, 2009

Marilyn Kelly,
Chief Justice

ADM File No. 2008-35

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

Proposed Amendment
of Rule 8.115 of the
Michigan Court Rules
(Cell Phone Usage
in Court Facilities)

On order of the Court, this is to advise that the Court is considering an amendment of Rule 8.115 of the Michigan Court Rules. **Please note that the order contains alternative options for the proposed language of MCR 8.115(C).** Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 8.115 Courtroom Decorum

(A)-(B)[Unchanged.]

Alternative A

(C) Electronic Devices. Lawyers may carry cell phones or other portable electronic devices into any court facility. Cell phone or other portable electronic device use shall be allowed anywhere outside the courtroom. When in any courtroom, all phones or other portable electronic devices shall either be turned off or silenced.

If silenced, counsel shall make certain that any transmissions do not interfere with court proceedings. No photographs may be taken inside any courtroom without permission of the court. No photographs may be taken of any jurors or witnesses. Individuals shall not initiate or answer any calls while court is in session without the consent of the court. Failure to comply with this section may result in a fine, incarceration, or both for contempt of court.

Alternative B

- (C) Electronic Devices. Lawyers may carry cell phones or other portable electronic devices into any court facility. Cell phone or other portable electronic device use shall be allowed anywhere outside the courtroom. When in any courtroom during court proceedings, all phones or other portable electronic devices shall be turned off. No photographs may be taken inside any courtroom without permission of the court. No photographs may be taken of any jurors or witnesses. No text message shall be sent or received. Failure to comply with this section may result in a fine, incarceration, or both for contempt of court.

Staff Comment: Alternative A, submitted by the State Bar of Michigan but with several clarifying revisions, would allow attorneys to bring cell phones into a courthouse, but would limit their use in courtrooms during court proceedings. In addition, the proposal would allow a court to impose sanctions for failure to comply with cell phone usage restrictions. Alternative B, similar to one submitted by the State Bar of Michigan, would allow attorneys to bring cell phones into a courthouse, but would prohibit their use in courtrooms during court proceedings. In addition, the proposal would allow a court to impose sanctions for failure to comply with cell phone usage restrictions.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by May 1, 2009, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2008-35. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 14, 2009

Corbin R. Davis
Clerk